

UNITED STATES TAX COURT
WASHINGTON, DC 20217

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GAMEHEARTS, A MONTANA NONPROFIT CORPORATION,)	
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)	
Petitioner(s),)	
)	
v.)	Docket No. 20303-13X.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	
)	

ORDER

The Court decided this case by T.C. Memorandum Opinion 2015-218, issued November 16, 2015, and decision entered November 24, 2015. On December 16, 2015, petitioner timely filed a Motion for Reconsideration under Rule 161.¹ On December 18, 2015, the Court ordered respondent to file an objection or other response to petitioner's motion by January 19, 2016. On January 15, 2016, respondent filed a Notice of Objection to Motion for Reconsideration of Findings or Opinion.

Reconsideration under Rule 161 is intended to correct substantial errors of fact or law and allow the introduction of newly discovered evidence that the moving party could not have introduced by the exercise of due diligence in the prior proceeding. Estate of Quick v. Commissioner, 110 T.C. 440, 441 (1998). This Court has discretion to grant a motion for reconsideration but will not do so unless the moving party shows unusual circumstances or substantial error. Id.; see also Vaughn v. Commissioner, 87 T.C. 164, 166-167 (1986). Reconsideration is not the appropriate forum for rehashing previously rejected legal arguments or tendering new legal theories to reach the end result desired by the moving party. Estate of Quick v. Commissioner, 110 T.C. at 441-442.

¹ Rule references are to the Tax Court Rules of Practice and Procedure. All section references are to the Internal Revenue Code of 1986, as amended.

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In a declaratory judgment action under section 7428 the scope of our review is limited to “the propriety of the reasons given by respondent for denying petitioner’s application for exempt status.” Aid to Artisans, Inc. v. Commissioner, 71 T.C. 202, 208 (1978) (citing Hous. Lawyer Referral Serv., Inc. v. Commissioner, 69 T.C. 570, 573 (1978)); see also Am. Campaign Acad. v. Commissioner, 92 T.C. 1053, 1063 (1989). In addition our review is limited to the “administrative record”, Aid to Artisans, Inc., 71 T.C. at 208, defined in Rule 210(b)(12) to include all documents submitted to the Internal Revenue Service (IRS) by the applicant in respect of the application, including protests and related papers submitted to the IRS, all written correspondence between the IRS and the applicant, all pertinent returns filed, and, of course, the notice of the determination.

Petitioner argues that we went beyond the reasons given by respondent in deciding that petitioner was not entitled to section 501(c)(3) tax exempt status. Petitioner appears to believe mistakenly that we must reject respondent’s determination unless we adopt respondent’s reasoning in its entirety; to the contrary if one of respondent’s reasons is correct under the law and is supported by the administrative record that is sufficient to sustain respondent’s determination. See Nationalist Movement v. Commissioner, 102 T.C. 558, 575, 594 (1994), aff’d, 37 F.3d 216 (5th Cir. 1994) (holding that the Commissioner erred in his determination that the taxpayer operated in furtherance of a substantial nonexempt, private purpose, but sustaining the Commissioner’s determination that the taxpayer did not operate exclusively for an exempt charitable purpose under section 501(c)(3)).

Respondent’s determination gave the following reasons:

Organizations described in I.R.C. section 501(c)(3) and exempt under I.R.C. section 501(a) must be organized and operated exclusively for an exempt purpose. You have not established that you benefitted a charitable class or that its non-exempt activities were insubstantial. You have failed to establish that you meet the requirements of I.R.C. section 501(c)(3) and Treasury Regulation section 1.501(c)(3)-1(d) in that you do not limit the recreational card game activities to only low income people with addictions.

We upheld respondent’s determination that petitioner’s nonexempt activities were substantial because of the nature of the activities offered as therapy – recreational gaming. The administrative record, including petitioner’s application for exemption and subsequent correspondence in support thereof, describes the

activities as gaming and therapeutic recreation and compares them to those offered in the for-profit markets. We therefore reject petitioner's concerns that we strayed beyond the reasons offered by respondent for rejecting petitioner's application for exemption or considered facts that are not in the administrative record.

Upon due consideration it is hereby

ORDERED that petitioner's Motion for Reconsideration, filed December 16, 2015, is denied.

**(Signed) Cary Douglas Pugh
Judge**

Dated: Washington, D.C.
March 7, 2016